

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case

10-CA-244924

Date Filed

7/16/19

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer
McDonald'sb. Tel. No.
919-688-7389

c. Cell No.

f. Fax No.

d. Address (Street, city, state, and ZIP code)
1010 N Miami Blvd
Durham NC 27703

e. Employer Representative

(b) (6), (b) (7)(C)

g. e-mail

h. Number of workers employed
50-75 appxi. Type of Establishment (factory, mine, wholesaler, etc.)
Fast Food Restaurantj. Identify principal product or service
Fast Food

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On or about July 8, 2019, managers at the McDonald's restaurant at 1010 N Miami Blvd in Durham, NC, threatened employees with termination for expressing interest in joining a labor union.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
SEIU National Fast Food Workers Union4a. Address (Street and number, city, state, and ZIP code)
1800 Massachusetts Ave NW
Washington DC 200364b. Tel. No.
202-494-8194

4c. Cell No.

4d. Fax No.

4e. e-mail
thomas.perez-lopez@seiu.org5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)
Service Employees International Union

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

Thomas Perez-Lopez

Tel. No.
202-494-8194

Office, if any, Cell No.

Fax No.

e-mail
thomas.perez-lopez@seiu.org

(signature of representative or person making charge)

(Print/type name and title or office, if any)

1800 Massachusetts Ave NW, Washington DC 20036

Address

Date July 15, 2019

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

SUBREGION 11
4035 University Pkwy Ste 200
Winston Salem, NC 27106-3275

Agency Website: www.nlrb.gov
Telephone: (336)631-5201
Fax: (336)631-5210



Download
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July 16, 2019

(b) (6), (b) (7)(C)

McDonald's
1010 N Miami Blvd
Durham, NC 27703

Re: McDonald's
Case 10-CA-244924

Dear (b) (6), (b) (7)(C):

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney JORDAN N. WOLFE whose telephone number is (336)582-7145. If this Board agent is not available, you may contact Supervisory Attorney SHANNON R. MEARES whose telephone number is (336)582-7137.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board

agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB

July 16, 2019

office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

John D. Doyle, Jr.
Regional Director

By:

A handwritten signature in black ink, appearing to read "Thompson", with a long horizontal flourish extending to the right.

Scott C. Thompson
Officer in Charge

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER

10-CA-244924

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)**2. TYPE OF ENTITY**☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)**3. IF A CORPORATION or LLC**A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS**5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).****7. A. PRINCIPAL LOCATION:****B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates)

YES NO

A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$H. **Gross Revenues** from all sales or performance of services (Check the largest amount)
☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. Did you **begin operations within the last 12 months?** If yes, specify date: _____**10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?**☐ YES ☐ NO (If yes, name and address of association or group).**11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS**

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

MCDONALD'S

Charged Party

and

SEIU NATIONAL FAST FOOD WORKERS UNION

Charging Party

Case 10-CA-244924

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on **July 16, 2019**, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

McDonald's
1010 N Miami Blvd
Durham, NC 27703

July 16, 2019

Date

Kevin S. Crawford, Designated Agent of NLRB

Name

/s/ Kevin S. Crawford

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

SUBREGION 11
4035 University Pkwy Ste 200
Winston Salem, NC 27106-3275

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Telephone: (336)631-5201
Fax: (336)631-5210



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July 16, 2019

Thomas Perez-Lopez
SEIU National Fast Food Workers Union
1800 Massachusetts Ave NW
Washington, DC 20036

Re: McDonald's
Case 10-CA-244924

Dear Mr. Perez-Lopez:

The charge that you filed in this case on July 16, 2019 has been docketed as case number 10-CA-244924. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney JORDAN N. WOLFE whose telephone number is (336)582-7145. If this Board agent is not available, you may contact Supervisory Attorney SHANNON R. MEARES whose telephone number is (336)582-7137.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

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Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

John D. Doyle, Jr.
Regional Director

By:

A handwritten signature in black ink, appearing to read "Scott C. Thompson", with a long horizontal flourish extending to the right.

Scott C. Thompson
Officer in Charge

From: [Thomas Perez-Lopez](#)
To: [Wolfe, Jordan](#)
Subject: Re: McDonalds, Case 10-CA-244924 Initial Contact
Date: Thursday, July 18, 2019 2:00:42 PM

Thanks Jordan — sorry that I've missed your calls. I was traveling all yesterday and I'm home
(b) (6), (b) (7)(C) I'll call you tomorrow.

Tom

On Thu, Jul 18, 2019 at 1:29 PM Wolfe, Jordan <Jordan.Wolfe@nlrb.gov> wrote:

Dear Mr. Perez-Lopez,

I am the investigating agent in this case and I have twice attempted to reach you by telephone so that we can discuss the case and schedule a time for you to present witnesses for an affidavit. Please call me at 336-582-7145. I will not be in the office for the rest of the afternoon, but I may be reached tomorrow.

Thank you,

Jordan N. Wolfe

Field Attorney

National Labor Relations Board - Subregion 11

[4035 University Parkway, Suite 200](#)

[Winston-Salem, NC 27106](#)-3325

Phone: 336.582.7145

Fax: 336.631.5210

--

Tom Perez-Lopez
Assistant General Counsel
Service Employees International Union (SEIU)
1800 Massachusetts Ave NW
(202) 494-8194 (cell)
(202) 730-7467 (office)

From: [Meares, Shannon R.](#)
To: [Martin, Terrance](#)
Cc: [Thompson, Scott C.](#); [Wolfe, Jordan](#)
Subject: McDonalds, Case 10-CA-244924 - LOC Dismissal
Date: Monday, July 29, 2019 11:50:46 AM

T:

I just sent you the LOC dismissal FIR and letter in this case.

Thanks!

Shannon



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

SUBREGION 11
4035 University Pkwy Ste 200
Winston Salem, NC 27106-3275

Agency Website: www.nlrb.gov
Telephone: (336)631-5201
Fax: (336)631-5210

July 29, 2019

Thomas Perez-Lopez
SEIU National Fast Food Workers Union
1800 Massachusetts Ave NW
Washington, DC 20036

Re: McDonald's
Case 10-CA-244924

Dear Mr. Perez-Lopez:

We have carefully considered your charge that McDonald's has violated the National Labor Relations Act.

Decision to Dismiss: In view of your lack of cooperation in investigating this case, I have determined that further proceedings are not warranted at this time and I am dismissing your charge.

On July 16, 2019, this office sent you a letter providing the name and contact information for the Board Agent assigned to investigate your charge and notified you that it was your responsibility to promptly provide evidence in support of your charge and failing to do so may result in your charge being dismissed without investigation.

On July 17, the Board Agent called you and left a voicemail asking to speak with you about the charge and to schedule witness affidavits. You did not return the Board Agent's call. The Board Agent called you on July 18 and left you another voicemail asking that you return her call. On July 22, you returned the Board Agent's calls and she provided you with her availability for scheduling witness affidavits. You told the Board Agent that you were working on scheduling witnesses and would call her back once you confirmed the witnesses' availability. The Board Agent did not hear from you, so on July 24 she called you and left a voicemail asking that you return her call about the witnesses' availability. In her voicemail, the Board Agent also suggested withdrawing the charge and refile when the witnesses are available. On July 25, the Board Agent called and spoke with you about scheduling witnesses. You apologized for not returning her calls and stated that you were still working to confirm witness availability the following week. The Board Agent explained that her availability was now limited to the date you proposed. You said that you understood. The Board Agent told you that she planned to recommend that your charge be dismissed for lack of cooperation if you failed to schedule the witnesses by close of business July 26. To date, you have not called to schedule the affidavits.

In view of your failure to cooperate in the investigation and to provide evidence in support of your allegations, I find that further proceedings on your charge are unwarranted. Accordingly, I am refusing to issue complaint in this matter.

If you wish to refile this charge later when you can cooperate in the investigation, you may do so. However, your attention is directed to Section 10(b) of the Act which provides that a charge must be filed with the NLRB and served on the charged party within six months of the conduct alleged to be unlawful.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlr.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **August 12, 2019**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than August 11, 2019. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before August 12, 2019**. The request may be filed electronically through the **E-File Documents** link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any


July 29, 2019

request for an extension of time to file an appeal received after August 12, 2019, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

JOHN D. DOYLE, JR.
Regional Director

By: 
SCOTT C. THOMPSON
Officer in Charge

Enclosure

cc:

(b) (6), (b) (7)(C)
McDonald's
1010 N Miami Blvd
Durham, NC 27703

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)